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Amend sections 15100 through 15620 of the California Code of Regulations, title 27, division 1, subdivision 4, chapter 1, part II, articles 1 through 10, to read as follows:

Article 1. Introduction

§15100. Unified Program

- (a) Health and Safety Code division 20, chapter 6.11, and these regulations outline the requirements for the Unified Program for hazardous materials and hazardous waste management. This division integrates requirements established pursuant to:
- (1) The Hazardous Waste Generator (HWG) program and the Hazardous Waste Onsite Treatment activities authorized under the permit-by-rule, conditionally authorized, and conditionally exempt tiers - Health and Safety Code division 20, chapter 6.5 (generally supplemented by Cal. Code Regs., tit. 22, div. 4.5);
 - (2) The Aboveground Storage Tank (AST) program Spill Prevention Control and Countermeasure Plan requirements - Health and Safety Code division 20, chapter 6.67, section 25270.5(c);
 - (3) The Underground Storage Tank (UST) program - Health and Safety Code division 20, chapter 6.7; (generally supplemented by the Cal. Code Regs., tit. 23, chs. 16 and 17);
 - (4) The Hazardous Materials Release Response Plans and Inventory (HMRRP) program - Health and Safety Code division 20, chapter 6.95, article 1 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2620-2734);
 - (5) Health and Safety Code division 20, chapter 6.95, article 2 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2735.1-2785.1);
 - (6) The Hazardous Materials Management Plans and the Hazardous Materials Inventory Statement (HMMP/HMIS) requirements - California Fire Code title 24, part 9, sections 8001.3.2 and 8001.3.3.
- (b) The Secretary of the California Environmental Protection Agency (Secretary), state agency, and Certified Unified Program Agency (CUPA) responsibilities for Unified Program elements are clarified as follows:
- (1) The Secretary is responsible for:
 - (A) Adopting implementation regulations for the administration and implementation of the Unified Program.

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- (B) Consolidating, coordinating, and making consistent the requirements of the Unified Program with requirements imposed by other government agencies on businesses regulated by the Unified Program, to the maximum extent feasible.
 - (C) Developing a Unified Program in close consultation with Department of Toxic Substances Control (DTSC), Governor's Office of Emergency Services (OES), Office of the State Fire Marshal (SFM), State Water Resources Control Board (SWRCB), local health officers and fire services, other interested local agencies, affected businesses, environmental organizations, and interested members of the public.
 - (D) Implementing a Unified Program that consolidates the administration of program elements.
 - (E) Implementing a Unified Program that ensures coordination and consistency of the regulations adopted for each program element, to the maximum extent feasible.
 - (F) Determining Unified Program implementation in each jurisdiction and certifying an agency as the CUPA, including approval of each Participating Agency's implementation.
 - (G) Periodically reviewing each CUPA's ability to adequately implement the Unified Program.
 - (H) Managing the Unified Program surcharge account.
- (2) The state agencies will establish and interpret statewide standards for those Unified Program elements for which they are responsible.
- (A) OES has responsibility for the HMRRP program and CalARP program.
 - (B) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the RMPP program elements are clarified as follows:
 - (i) OES will coordinate the consolidation of planning formats pursuant to Health and Safety Code section 25503.4.
 - (ii) OES will coordinate program responsibilities concerning RMPP activities.
 - (iii) OES will coordinate revisions to the single comprehensive hazardous material reporting form required pursuant to Health and Safety Code section 25503.3 and to the RMPP guidance document.

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- (iv) CUPAs will establish procedures for acceptance, tracking and maintenance of RMPP and acutely hazardous materials registration forms from regulated businesses.
 - (v) CUPAs will establish procedures for acceptance, tracking and maintenance of reports of any release or threatened release of a hazardous material which poses the potential for significant hazard.
 - (vi) CUPAs will integrate information from the business plans submitted into the development and implementation of an area plan, as defined in Health and Safety Code chapter 6.95, article 1, within their jurisdiction.
 - (vii) CUPAs shall ensure emergency response personnel and OES full access to information collected and maintained regarding implementation of RMPP program elements.
- (C) SFM has responsibility for California Fire Code sections 8001.3.2 and 8001.3.3, as adopted pursuant to Health and Safety Code section 13143.9, concerning the HMMP/HMIS.
- (D) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HMMP/HMIS (Health & Saf. Code, § 25404 (c)(6)) are clarified as follows:
- (i) SFM will coordinate program responsibilities concerning the HMMP/HMIS.
 - (ii) HMMP/HMISs, when required, will comply with Health and Safety Code sections 25500 through 25545 and California Code of Regulations, title 19, division 2, chapter 4, section 2620 et. seq.
 - (iii) Each CUPA will ensure full access to and availability of information submitted under section 8001.3 (b) and (c), part 9 of the California Code of Regulations, title 24, to any chief of any county or city fire department or district with shared responsibility for protection of the public health and safety of the environment. The CUPA will forward the data collected, within 15 days of receipt and confirmation, to the county or city fire department or district.
- (E) SWRCB has responsibility for the UST program and represents the Regional Water Quality Control Boards for the AST Spill Prevention Control and Countermeasure plan verification.
- (F) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the UST program elements are clarified as follows:

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- (i) A CUPA may oversee the abatement of unauthorized releases of hazardous substances from underground storage tanks pursuant to the Local Oversight Program (LOP) listed in Health and Safety Code section 25297.1, providing the following criteria are met:
 - 1. The CUPA must demonstrate its capability to oversee corrective action by having two years of acceptable experience implementing the underground storage tank program under Regional Water Quality Control Board oversight after which time the CUPA may apply to the SWRCB to enter into an agreement for the LOP.
 - 2. The funding source available to the SWRCB is sufficient to cover the LOP agreements.
- (G) DTSC has responsibility for the HWG and Onsite Hazardous Waste Treatment programs.
- (H) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HWG and Onsite Hazardous Waste Treatment elements are clarified as follows:
 - (i) DTSC will coordinate, to the maximum extent feasible, the responsibilities concerning hazardous waste generators and onsite hazardous waste treatment activities with the CUPA at a hazardous waste Treatment, Storage and Disposal (TSD) facility.
 - (ii) CUPAs may refer enforcement cases to the DTSC. DTSC may accept enforcement cases at its discretion.
 - (iii) CUPAs will establish procedures to accept the following reports from businesses:
 - 1. Contingency Plan activation report for permitted facilities (Cal. Code Regs., tit. 22, § 66264.56 (j) and 66265.56(j)).
 - 2. Release reports for tank systems or secondary containment systems reporting the release of a reportable quantity (Cal. Code Regs., tit. 22, § 6625.196(e)).
 - 3. Tiered Permitting Closure Reports.
 - (iv) CUPAs will review source reduction documents required of businesses pursuant to Health and Safety Code, Sections 25244.19, 25244.20, and

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25244.21; and may impose civil penalties pursuant to Health and Safety Code, Section 25244.21(a).

- (v) Hazardous Waste Manifest documents will continue to be submitted to DTSC.
- (vi) Hazardous Waste Manifest Exception Reports will continue to be submitted to DTSC.
- (vii) DTSC will retain responsibility for hazardous waste classifications.
- (viii) DTSC will retain responsibility for overseeing exports of hazardous waste out of the country.
- (ix) DTSC and the US Environmental Protection Agency will retain responsibility for issuing EPA numbers.
- (x) DTSC will retain responsibility for the following elements of the Hazardous Waste Source Reduction and Management Review Act of 1989 (Health & Saf. Code § 25244.12 et. seq.):
 - 1. Conduct a technical and research assistance program pursuant to Health and Safety Code section 25244.17.
 - 2. Select at least two categories of generators by SIC Code every two years to identify successful source reduction measurers pursuant to Health and Safety Code section 25244.18 (a).
 - 3. Impose civil penalties pursuant to Health and Safety Code section 25244.18 (d)(2).
 - 4. Report to the Legislature pursuant to Health and Safety Code section 25244.22.
- (xi) DTSC will retain the responsibility to collect Biennial Reports specified in California Code of Regulations, title 22, section 66262.41.
- (xii) DTSC will notify and coordinate with the appropriate CUPA regarding any investigation it will conduct of hazardous waste generators; hazardous waste generators conducting treatment conditionally authorized pursuant to Health and Safety Code section 25200.3; hazardous waste generators conducting treatment conditionally exempted pursuant to Health and Safety Code section 25201.5; and facilities deemed to hold a permit-by-rule pursuant to

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the regulations adopted by DTSC. Information related to an ongoing investigation shall remain confidential.

(l) State agencies' responsibilities include:

(i) Maximizing coordination, consolidation, and consistency of their Unified Program element(s) within the Unified Program.

(ii) Participating in evaluating CUPAs as defined by the Secretary.

(iii) Providing necessary guidance, training, and support to Unified Program Agencies.

(3) The Unified Program Agencies' responsibilities include implementing the requirements in Health and Safety Code chapter 6.11, these regulations, and the requirements for each program element.

Authority cited: Sections 25404(b), 25404.1(b)(1), 25404.3(f) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404(b), (c) and (d), 25404.1, 25404.2(a) and (c), 25404.3(f), 25404.5 and 25533(f), Health and Safety Code.

Article 2. Definitions

§15110. Unified Program Definitions

(a) Applicant Agency means a county, city or other qualified local agency that is applying to the Secretary to become a Certified Unified Program Agency.

(b) Certified Unified Program Agency or CUPA means the agency certified by the Secretary to implement the Unified Program in a specified jurisdiction, pursuant to Health and Safety Code chapter 6.11.

(c) Data Collection. For the purposes of this division, terms related to the Unified Program information have the following meaning:

(1) Data elements are the information components required by applicable statutes or regulations.

(2) Data transmission protocol means a standard for sharing electronic data.

(3) Electronic reporting or sharing of data means transferring data or information using an electronic or magnetic media.

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- (4) File format means how data is packaged in any mode.
- (5) Format means the order, arrangement, style, and organization of the data elements comprising the Unified Program Consolidated Form.
- (6) Media means the type of device used to share data from the source to a recipient. Examples include telecommunications transmissions, such as e-mail or direct computer-to-computer links and magnetic media such as disks, diskettes, tapes, and CD ROM.
- (7) Mode means the method by which data is shared. Common modes include e-mail, diskette, tape, and CD ROM. Mode encompasses the file format and data transmission protocol.
- (8) Multi-media means more than one environmental surrounding (air, water, or soil).
- (d) Enforcement Actions. There are two types of Unified Program enforcement actions:
 - (1) Formal Enforcement means a civil, criminal, or administrative action that mandates compliance, imposes sanctions, and results in an enforceable agreement or order. Enforceable agreement or order means the instrument creates an independent, affirmative obligation to comply and imposes sanctions for the prior failure to comply. Sanctions include fines and penalties as well as other tangible obligations, beyond returning to compliance, that are imposed upon the regulated business.
 - (2) Informal Enforcement means a notification to the regulated business of non-compliance and establishes an action and a date by which that non-compliance is to be corrected. Examples include a letter or notice of violation. These actions do not impose sanctions.
- (e) Inspection Types. There are two types of Unified Program inspections, which for reporting purposes are mutually exclusive:
 - (1) Routine Inspection is a regularly scheduled inspection to evaluate compliance pursuant to one or more program elements.
 - (2) Other Inspection includes, but is not limited to, regulatory field activity such as complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations. It does not include routine inspections or field or site visits whose principal purposes are informational or educational, pollution prevention education, verification of administrative information, or orientation of new owners or operators. "Other Inspection" also includes verification inspections for the administrative

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requirement of Health and Safety Code section 25270.5, subdivision (c), for owners and operators of aboveground storage tanks to prepare a spill prevention control and countermeasure plan.

- (f) Participating Agency (PA) means a state or local agency that has a formal agreement with the CUPA to implement one or more program elements as part of the Unified Program.
- (g) Program Element means one of the six sets of requirements listed in section 15100(a) or any other requirements incorporated pursuant to Health and Safety Code chapter 6.11, section 25404.2(d).
- (h) Regulated Business means any of the following:
 - (1) “person” as defined in:
 - (A) the Hazardous Waste Management Program, Health and Safety Code section 25118;
 - (B) the California Hazardous Substances Tax Law, Revenue and Taxation Code part 22, division 2, section 43006;
 - (C) the HMRRP program, title 19, section 2650;
 - (D) the CalARP program, Health and Safety Code section 25532(m);
 - (E) the UST program, Health and Safety Code section 25281(l); and
 - (F) the AST program, Health and Safety Code section 25270.2(f).
 - (2) “business” as defined in the HMRRP program, Health and Safety Code sections 25501(d) and 25501.4.
 - (3) “facility” as defined in the UST program, Health and Safety Code section 25281(f).
 - (4) “tank facility” as defined in the AST program, Health and Safety Code section 25270.2(l).
 - (5) “hazardous waste facility” as defined in the Hazardous Waste Management program, Health and Safety Code section 25117.1.
 - (6) “stationary source” as defined in the CalARP program, California Code of Regulations, title 19, section 2735.3(uu).

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- (i) Signed or signature for purposes of electronic submissions means any symbol, including a digital signature defined in Government Code section 16.5, executed or adopted by a party with present intention to authenticate a writing.
- (j) Surcharge means an element of the single fee assessed by the CUPA on each regulated business that covers the necessary and reasonable cost of the state agencies in carrying out their responsibilities pursuant to Health and Safety Code section 25404.5(b).
- (k) Unified Program Agency (UPA) is the Certified Unified Program Agency (CUPA) or participating agency (PA) that implements one or more Unified Program elements.
- (l) Unified Program Consolidated Form (UPCF) is a standardized set of forms to be used by CUPAs to collect Unified Program information from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.
- (m) Unified Program Data Dictionary (data dictionary) defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected and retained by a CUPA. It has the following sections:
 - (1) Business Section: for information reported from businesses to CUPAs. [Div. 3, subd. 1, chs. 1-4]
 - (2) CUPA Section: for CUPA-to-state reporting of CUPA activities or other information that shall be collected and retained by a CUPA and reported pursuant to section 15290. [Div. 3, subd. 1, ch. 5, Unified Agency Reporting]
- (n) Unified Program Facility Permit means those permits issued under the Unified Program. The permit may be a single permit or multiple permits in a single package which shall minimize duplicate information. It includes the underground storage tank permit, permit-by-rule, and any other permit or authorization requirements found under any local ordinance or requirement relating to the generation or handling of hazardous waste or materials. The Unified Program Facility Permit does not include the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire or Building Code.

Authority cited: Sections 25404(b), (c), (d) and (e), Health and Safety Code.
Reference: Sections 25404(c) and (d), 25404.5(a) and 25532(k), Health and Safety Code; Section 43006, Revenue and Taxation Code; and the 1996 United States Environmental Protection Agency Enforcement Response Policy for the Resource Conservation and Recovery Act.

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Article 3. Application Process

§15120. Certified Unified Program Agency Applicants

- (a) Counties must apply.
- (b) Cities or other local agencies that qualify pursuant to Health and Safety Code section 25404.1(b)(2) may apply.
- (c) A city that incorporates after January 1, 1996, may apply for certification as a CUPA pursuant to Health and Safety Code section 25404.1(b)(2)(B) and section 15130(b) of this title. Any request to the Secretary for approval to apply for certification shall be submitted within 180 days of incorporation.
- (d) Two or more counties, cities or local agencies that propose to form a Joint Powers Agency (JPA) may apply on or before January 1, 1996.
 - (1) Cities or other local agencies that have formed or propose to form a JPA may apply if one of the following is true:
 - (i) A maximum of two member agencies of the JPA have not implemented the HMRRP program or the UST program prior to December 31, 1995, and at least one member agency has implemented the HMRRP program or the UST program prior to December 31, 1995; or
 - (ii) The JPA has an agreement with the county to implement the Unified Program in the JPA's jurisdiction; or
 - (iii) The county is a member agency of the JPA.
- (e) Each county shall and each city or local agency within the county that qualifies pursuant to Health and Safety Code section 25404.1(b)(2) and chooses to apply, shall apply for certification on or before January 1, 1996.
- (f) An applicant agency shall apply to the Secretary according to the provisions of sections 15130, 15150, and 15160.
- (g) Applications shall be valid if they meet the requirements of this article and one copy is mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code.

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Reference: Section 25404.1(b), Health and Safety Code.

§15130. Application Notices

(a) A non-county agency, as defined in section 15120(c) and (d), that intends to apply for certification as a CUPA shall file with the Secretary and the county within which the city or other local agency is located, a letter that expresses the applicant's intent to apply. This "intent to apply" letter shall be valid if mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

(b) Any request to the Secretary by a non-county agency for approval to apply for certification pursuant to Health and Safety Code section 25404.1(b)(2)(B) shall be submitted in writing.

(1) In its request, the applicant shall specify the date it received the county's agreement or the reasons for failing to enter into an agreement. Any relevant correspondence to or from the county shall be attached to the request.

(2) The Secretary shall respond within 45 days of receiving the request.

Authority cited: Sections 25204(b) and 25404.6(c), Health and Safety Code.

Reference: Section 25404.1(b), Health and Safety Code.

§15150. Information Provided in an Application

(a) Identify which agency will be the point of contact within the CUPA.

(1) An applicant agency shall designate only one administrative body, such as an internal department or office within a county or city, within that jurisdiction as the point of contact for Unified Program implementation.

(2) The governing body of the applicant agency may designate itself as the point of contact by not specifying any other.

(3) The applicant agency shall provide the name, address, phone number, e-mail, and facsimile number of the contact (use appendix A).

(b) The application for certification as a CUPA shall be signed by at least one elected or appointed official who is authorized to represent the jurisdiction.

(c) The application for certification shall include an Authorizations Section including a list and brief description of all ordinances and resolutions used in the Unified Program.

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- (1) If overlapping authority will arise pursuant to certification under this division, the applicant agency shall include in the application, a discussion of how jurisdictional authority will be managed to ensure that health and safety are maintained within the jurisdiction.
- (2) Copies of all UST ordinances required by Health and Safety Code chapter 6.7 must be provided.
- (d) The application for certification shall include an Agreements Section including copies of all agreements or draft agreements between the applicant agency and proposed participating agencies.
 - (1) The Agreements Section shall include draft or final agreements between the applicant agency and all proposed participating agencies. Final copies of all agreements must be submitted to the Secretary prior to certification.
 - (A) If an applicant agency proposes that any agency other than itself implement any aspect of the single fee system, including the surcharge, the written agreement shall specify responsibilities of each agency. The written agreement shall:
 - (i) Identify responsibility for absorbing funds lost on non-payment of fees.
 - (ii) Identify under what conditions and authority fees will be waived.
 - (B) Include procedures for removing a PA required pursuant to 15180(e)(6).
 - (C) CUPAs may satisfy information collection, retention, and management requirement through agreements with PAs that serve as the repository of the information.
- (e) The application for certification shall be constructed in sections so as to meet the requirements and structure of appendix A, including the following:
 - (1) A cover sheet. Use appendix A and complete all appropriate information.
 - (2) For a county applicant, documentation that cities within the county either intend or do not intend to apply to be a CUPA. Documentation may take the form of a listing of all cities within the county with an indication of whether they intend to apply or not.
 - (3) A description of the geographic scope of the proposed Unified Program in the jurisdiction.

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- (4) The number of regulated businesses within the jurisdiction for each program element. Use appendix B, table 1 to provide this information.
- (5) The organizational structure of the proposed Unified Program in the jurisdiction.
- (6) A Unified Program Implementation Plan that provides:
 - (A) A description or implementation timeline that addresses all phases from startup through full operation.
 - (B) Specific information required for the Secretary's evaluation of the application pursuant to section 15170.
 - (C) For a transition from multiple billing statements and collection agencies within the Unified Program to a single billing statement and collection agency within the Unified Program, this shall:
 - (i) Provide for a transition period no longer than five years;
 - (ii) Provide for regulated businesses to receive a single billing statement annually that includes all recurring United Program activity fees;
 - (iii) Provide for regulated businesses to remit Unified Program fees with a single payment; and
 - (iv) Include provisions for instances of non-payment.
- (7) Adequate information to determine that the applicant agency and any proposed PAs meet education, expertise and training requirements specified in sections 15260 and 15270.
 - (A) Table 2 and table 4 may be used to provide this information.
 - (B) If table 2 and table 4 are not used, the information required in the tables must be provided in some form.
- (8) A certification that the administrative procedures of the proposed Unified Program will meet the requirements of section 15180. Use appendix B.
- (9) A Unified Program Facility Permit Plan that meets the requirements of section 15190.
- (10) An Inspection and Enforcement Program Plan that meets the requirements of section 15200.

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- (11) A Fee Accountability Program in compliance with section 25404.5(c) of the Health and Safety Code and with section 15210 of this title.
 - (12) A Single Fee System Implementation Plan that meets the requirements of section 15210.
 - (13) A budget and funding mechanism for the Unified Program that meets the requirements of section 15170(c), staff time allocations, and certification that adequate resources exist to carry out the Unified Program. Appendix B, table 3 may be used to provide information on staff time allocations. Appendix B will be used to certify adequate resources exist.
 - (14) A description of how the CUPA will fulfill reporting requirements and certification that it will meet requirements of article 6 below.
 - (15) A summary of program implementation history that shall include the following information. Appendix B, table 2 may be used to provide this information.
 - (A) A list of the Unified Program elements that have been managed by the applicant agency and PAs for the past three years. This list shall include voluntarily consolidated programs.
 - (B) A summary of inspection and enforcement activities within the scope of the Unified Program, undertaken within the past three years, including the types and numbers of inspections conducted and enforcement actions handled.
 - (16) A description of recordkeeping and costs accounting systems.
 - (17) A description of the applicant agency's compliance with the criteria identified in the California Code of Regulations title 22, section 66272.10 except subdivisions (b)(2) and (b)(3).
 - (18) A description of any additional programs incorporated into the Unified Program.
 - (19) An explanation of why the Secretary need not be concerned that certification of the applicant agency might lead to adverse impacts on the county.
 - (20) A description of how certification of the proposed Unified Program will lead to less fragmentation between jurisdictions within the county.
- (f) The application for certification shall contain a Single Fee System Implementation Plan that provides for a transition from multiple billing statements and collection

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agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.

- (1) The applicant agency shall implement the Single Fee System Implementation Plan upon certification.
- (2) The applicant agency shall provide for public participation and review of the proposed Single Fee System Implementation Plan.
- (3) A CUPA that has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an exception of the five-year limit.
 - (A) The CUPA shall submit such petition at least one year prior to expiration of the five-year limit.
 - (B) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

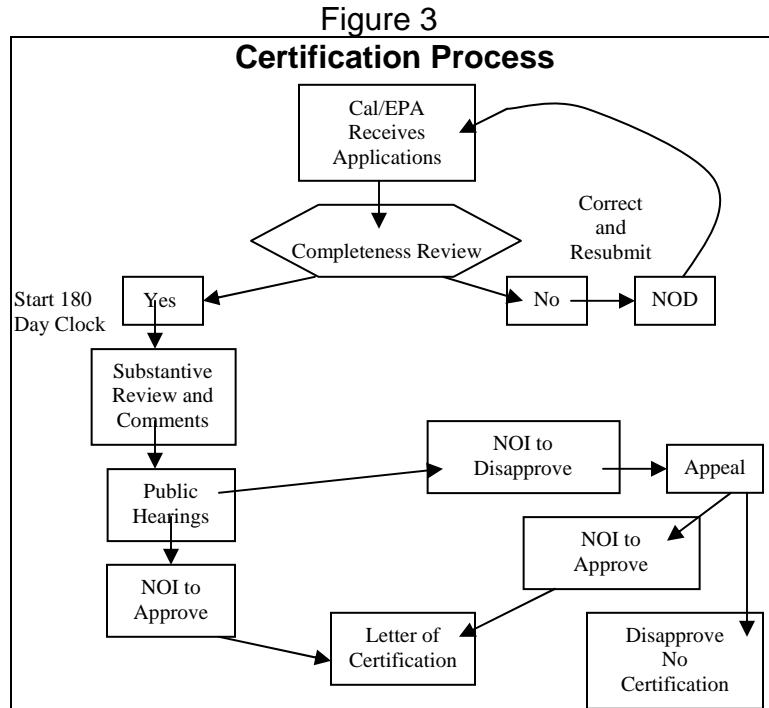
Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.1(b), 25404.2, 25404.3(b), (c) and (d), and 25404.5, Health and Safety Code.

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Article 4. Certification Process and Responsibilities

§15160. Certification Process



(a) Completeness review.

- (1) Each application shall be reviewed to determine whether all required information has been provided. Such review shall be finished within 90 days of receipt of the application. Within the 90-day period:
 - (A) The Secretary shall send a notice of completeness to an applicant agency whose application has been determined to contain all necessary components; or
 - (B) The Secretary shall return an incomplete application to the applicant agency.
 - (i) The Secretary shall notify an applicant agency of an incomplete application by using a Notice of Deficiency (NOD).
 - (ii) In the NOD, the Secretary shall specify those provisions of the application that are not sufficient and the date by which the additional information is due.

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(b) State agency review and recommendation.

- (1) Applications that are found to be complete shall be reviewed pursuant to Health and Safety Code section 25404.3(b). In determining whether an applicant agency should be certified, the Secretary shall consider comments from the following or their designee:

Director of Department of Toxic Substances Control;
Director of the Office of Emergency Services;
State Fire Marshal; and
Executive Officer and Chairperson of the State Water Resources
Control Board

- (2) Comments and recommendations to the Secretary shall be based on analysis of the application contents and consideration of the requirements of this division.

(c) Public hearing.

- (1) The Secretary shall hold a public hearing regarding the application for certification.
- (2) The Secretary may group public hearings for efficiency purposes.
- (3) The Secretary shall consider comments received as part of the public hearing in the determination of whether an applicant should be certified.

(d) The Notice of Intent (NOI).

- (1) The Secretary shall complete the review process and issue an NOI within 180 days of receipt of the complete application for certification.
- (A) The Secretary shall issue a NOI to disapprove the application for certification if the Secretary finds the applicant agency should not be certified. The NOI to disapprove shall identify those areas of the Unified Program that are deficient.
- (B) The Secretary shall issue an NOI to approve if the Secretary intends to approve an application for certification.
- (2) During periodic review of the Unified Program, or review of an amended application, if the Secretary finds the Unified Program or the Unified Program implementation to be deficient, the Secretary shall issue an NOI to withdraw certification. The NOI shall identify those areas of the Unified Program that are deficient.

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(e) Final Decision.

- (1) The Secretary's final decision shall be issued in writing to the applicant agency within 30 days of issuing the NOI except as provided in section 15160(f). The certification shall include the date upon which the CUPA's authority shall commence.
- (2) For purposes of this division and the California Code of Regulations title 22, division 4.5, "certification" of a CUPA shall constitute "designation" pursuant to Health and Safety Code section 25180, of the responsible agency implementing chapter 6.5 of the Health and Safety Code, pursuant to the California Code of Regulations title 22, section 66272.10.

(f) Certification Decision Appeal Process.

- (1) Within 30 days of receipt of an NOI to disapprove certification, the applicant agency may respond to the reasons specified and correct the deficiencies in its application.
- (2) Within 30 days of receipt of an NOI to withdraw certification, the CUPA may respond to the reasons specified and correct the deficiencies in its Unified Program.
- (3) In addition to its rights pursuant to (1) above, the applicant agency may request a second public hearing, at which time the Secretary shall hear the applicant agency's response to the reasons specified in the NOI to disapprove.
- (4) The appeal process shall be completed within 60 days of receipt of the appeal.
- (5) The Secretary's final decision on the certification decision appeal shall be issued in writing.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404(d), 25404.3 and 25404.4(a), Health and Safety Code.

§15170. Criteria the Secretary Will Use to Evaluate Applications

(a) The Secretary will evaluate applications based on the following:

- (1) Adequacy of education, expertise, and training as required by sections 15260 and 15270.
- (2) Adequacy of proposed resources including an analysis of:

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- (A) The number and type of regulated businesses within the jurisdiction;
 - (B) An estimate of the annual number of compliance and complaint inspections;
 - (C) The time allocation requirements of local agency staff shall be computed on a full-time equivalent basis, not to exceed 1776 work hours per year per person, for the following:
 - (i) Inspections and the related travel, research, analysis of findings, and documentation;
 - (ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;
 - (iii) Permit activities including application reviews, modifications and revisions, and facility evaluations;
 - (iv) Training including field, meetings, seminars, workshops, courses and literature reviews; and
 - (v) Management including day-to-day operation scheduling and supervision.
 - (D) An estimate of required staff and supervisory personnel to manage the single fee system, surcharge and fee accountability system;
 - (E) The number of support staff, both technical and non-technical, for all program elements; and
 - (F) Description of contacts, working relationship with local prosecution and law enforcement agencies (i.e., District Attorneys, strike force memberships, etc.).
- (3) Proposed budget resources and funding mechanisms. The applicant agency shall include as part of the application, a summary of projected annual funding and expenses for the entire local Unified Program. Adequacy of budget resources and funding mechanisms shall be calculated as the ratio of funding to expenses, a value of one being the standard for most adequate.
- (4) Past performance of the applicant agency and its proposed participating agencies in implementing hazardous materials and hazardous waste management programs.
- (5) Record keeping and cost accounting systems proposed for the Unified Program, including:

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- (A) Elements required by the Secretary pursuant to Health and Safety Code section 25404(c);
 - (B) A method for calculating program costs;
 - (C) Permit fee structure;
 - (D) Fee collection process; and
 - (E) Data management.
- (6) Compliance with the criteria in California Code of Regulations, title 22, section 66272.10, except for the requirement of paragraph (2) of subdivision (b) of that section related to county-wide jurisdiction and paragraph (3) of subdivision (b) of that section related to hazardous waste facilities.
- (7) Additional programs, including but not limited to programs such as hazardous waste source reduction and pollution prevention programs, incorporated in the Unified Program.
- (8) Identified adverse impacts on the county. The Secretary will give particular consideration to written comments or comments received during the public hearing.
- (9) The Unified Program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in Health and Safety Code section 25404(c). The Secretary shall consider, but shall not be limited to, the following measures of fragmentation. The applicant agency shall justify its certification with respect to these measures in the implementation plan required pursuant to California Code of Regulations, title 27, section 15150(e)(6).
- (A) The number of agencies managing the six Unified Program elements listed in Health and Safety Code section 25404(c) within the county prior to January 1, 1994, and the number of agencies managing those program elements as proposed by the applicant agency.
 - (B) The number of agencies a regulated business had to work with for the Unified Program elements prior to January 1, 1994, and the number of agencies a regulated business will have to work with as proposed by the applicant agency.
- (10) County-wide coordination and consistency. The Secretary shall consider, but not be limited to the following:

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- (A) Agreements among the county, city, and local agency applicants indicating consistency with a county-wide Unified Program.
- (11) The Secretary shall not certify an applicant agency that proposes to include participating agencies in the Unified Program, unless there is a finding that:
- (A) It meets the requirements of Health and Safety Code section 25404.3(d)(1).
- (B) The proposed participating agencies have met the education, training and experience requirements identified in sections 15260 and 15270, and have adequate resources to implement the program element(s) that the applicant agency has proposed it will take on.
- (C) All necessary agreements are in place, pursuant to Health and Safety Code section 25404.3(d)(3).
- (12) The requirements of sections 15160(b) and 15160(c).
- (13) The implementation plan for the consolidation of permits, inspections, enforcement, and fees.
- (14) Documentation of authority to implement program elements.
- (15) If the program will be fully operational no later than one year after certification.

Authority cited: Sections 25404(b), 25404.2(c), 25404.3(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.2(a) and (c), and 25404.3(b), (c) and (d), Health and Safety Code.

Article 5. Implementation and Maintenance of the Unified Program

§15180. Maintenance of Certification and Administration

- (a) A CUPA shall implement the Unified Program consistent with the implementation plan submitted in compliance with section 15150(e)(6) and these regulations.
- (b) A CUPA shall maintain certification through the administration of the Unified Program in compliance with these regulations.
- (c) Any agency designated by the Secretary as the CUPA pursuant to Health and Safety Code section 25404.3(f)(2) must comply with the requirements in these regulations.

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- (d) Any local agency authorized to continue its role, responsibilities, and authority pursuant to Health and Safety Code sections 25404.3(f)(2) or 25533(f) shall comply with the requirements in the regulations placed on CUPAs with the exception of articles 3, 4, and 7, sections 15210, 15220, 15240, 15250, and 15260.
- (e) The CUPA shall establish and implement the following Unified Program administrative procedures.-
 - (1) Public participation procedures that:
 - (A) Ensure receipt and consideration of comments from regulated businesses and the public.
 - (B) Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
 - (C) Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.
 - (2) Records maintenance procedures that include:
 - (A) Identification of the records maintained.
 - (B) Minimum retention times.
 - (C) Archive procedures.
 - (D) Proper disposal methods.
 - (3) Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
 - (4) Procedures for forwarding the HMRRP information in accordance with Health and Safety Code sections 25503.5(d) and 25509.2(a)(3).-
 - (5) Financial management procedures that include:
 - (A) A single fee system in compliance with section 15210;
 - (B) A fee accountability program in compliance with section 15220; and

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(C) A surcharge collection and reimbursement program in compliance with section 15250.

(6) Procedures for the withdrawal or removal a PA that include:

- (A) Providing notice;
- (B) Stating causes;
- (C) Taking public comment;
- (D) Making appeals; and
- (E) Resolving disputes.

Authority cited: Sections 25404(b) and (e) and 25404.6, Health and Safety Code.
Reference: Sections 25103, 25404.2(a) and (c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506, 25509.2(a)(3) and 25534.5, Health and Safety Code; and Section 6253 et seq., Government Code.

§15185. Information Collection, Retention, and Management

- (a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program, including but not limited to these regulations and all information defined in the Unified Program data dictionary.
- (b) The data dictionary is contained in Division 3, Electronic Submittal of Information. It defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected, retained, and managed by a CUPA. It consists of the following sections:
 - (1) Division 3, Electronic Submittal of Information, includes data elements reported by a regulated business to a UPA and.
 - (2) Division 3, Electronic Submittal of Information, includes data elements a CUPA reports to the state.
- (c) A CUPA shall retain the following information for a minimum of five years:
 - (1) Copies of self-audits, inspection reports, enforcement files, and UPCFs.
 - (2) All records related to hazardous waste enforcement actions from the date the enforcement action is resolved.

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- (3) Detailed records used to produce the summary reports submitted to the state.
- (4) Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.
- (d) Electronic reporting is optional and the CUPA is not required to store or maintain the data in the Unified Program data dictionary format. The data dictionary data structures and formats must be used for electronic reporting by businesses to a CUPA pursuant to this section or by a CUPA to the state pursuant to this section and 15290.
- (e) Within three months of the Secretary's approval of the electronic data transmission protocol developed pursuant to Public Resources Code division 34, chapter 3, section 71060 et seq., data management, a CUPA shall accept data from businesses in the approved electronic data transmission protocol, if the CUPA agrees to accept information electronically.
- (f) The CUPA may permit a regulated business to meet its information reporting requirements electronically. In such case, the format and mode of the submission shall be specified by the CUPA and shall be consistent with the data standards adopted in articles 5 through 10 inclusive.
- (g) If a CUPA accepts any information electronically, the CUPA shall accept all submissions that contain the data elements with the field length and type and in the order specified in the data dictionary. A CUPA may, on a case-by-case basis, agree to accept information that does not meet the data dictionary standard.
- (h) The CUPA may establish local standards for the collection of locally required supplemental information in addition to standards specified in the Unified Program data dictionary.
- (i) CUPAs shall collect, retain, and manage any additional information required by state or federal law.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25281.2, 25218.9, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

§15186. Unified Program Consolidated Form (UPCF)

- (a) The UPCF shall be used by the UPAs to collect information from regulated businesses.

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(b) The UPCF consists of the following:

- (1) Business Activities Page;
- (2) Business Owner/Operator Identification;
- (3) Hazardous Materials Inventory-Chemical Description;
- (4) UST Facility;
- (5) UST;
- (6) UST Installation-Certificate of Compliance;
- (7) Recyclable Materials Report;
- (8) Onsite Hazardous Waste Treatment Notification-Facility;
- (9) Onsite Hazardous Waste Treatment Notification-Unit;
- (10) Certification of Financial Assurance for Permit by Rule and Conditionally Authorized Operations;
- (11) Remote Waste Consolidation Site Annual Notification;
- (12) Hazardous Waste Tank Closure Certification; and
- (13) Household Hazardous Waste Information (reserved).

(c) The UPCF may be reproduced or electronically duplicated as needed.

(d) Different parts of the UPCF, the alternative version, or a computer-generated facsimile may be submitted separately. Each submission shall be accompanied by the Business Owner/Operator Identification page and shall be signed. The Business Activities page shall also be resubmitted whenever any information reported on it changes.

§15187. Unified Program Consolidated Form – CUPA Responsibilities

(a) The CUPA shall distribute copies of the UPCF, or an alternative version, to any regulated business or member of the public upon request.

(b) Each CUPA shall provide instructions to the regulated businesses when distributing the UPCF and any alternative versions.

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- (c) The CUPA shall accept the UPCF as shown in Division 3, Electronic Submittal of Information, from any regulated business that chooses to use it, even if the CUPA adopts one or more alternative versions of the UPCF.
- (d) A CUPA may add the name of the CUPA, a logo, an address, phone number, and other identifying information to the UPCF title or footer on one or more pages, without the customized UPCF being considered an alternative version subject to the conditions adopted by this section.
- (e) A CUPA may create alternative versions of the UPCF for local purposes such as streamlining for small businesses or addressing a specific type of industry. Any alternative version of the UPCF shall:
 - (1) Collect all of the information found on the UPCF that applies to the regulated businesses using the data element definitions established by the data dictionary;
 - (2) Be consistent with the data standards adopted throughout articles 5 through 10 of these regulations;
 - (3) Use the same section order as shown in section 15185(b)(1);
 - (4) Be developed in consultation with all other agencies within the CUPA's jurisdiction that are responsible for fire protection, emergency response, and environmental health;
 - (5) Not duplicate data elements between sections of the UPCF other than facility ID number and facility name;
 - (A) Duplicate information between different forms is allowed only if it is necessary to provide for form tracking.
 - (6) Comply with all applicable federal and state laws; and
 - (7) Include a written disclaimer statement on a cover page or the front page, printed using a font larger than or equal to eight points for readability: "This form was developed by the CUPA as an alternative version of the UPCF. Businesses have the option to use the UPCF adopted in state regulations. The CUPA may require businesses to provide additional information."
- (f) CUPAs shall collect additional local information on either supplemental pages or within the UPCF in the boxes provided on the Business Owner/Operator Identification page and the Hazardous Materials Inventory-Chemical Description page.

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- (g) CUPAs that have created one or more alternative versions of the UPCF may add supplemental requests for information within the alternative version, to the extent space is available.
- (h) CUPAs are prohibited from requesting duplicative information in a different format if the information is part of the data dictionary, the UPCF, or that CUPA's alternative version of the UPCF.
- (i) The CUPA shall determine if business-generated facsimiles comply with the requirements of subdivision (b). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.

§15188. Unified Program Consolidated Form – Business Responsibilities

- (a) Regulated businesses are required to meet the reporting requirements of any applicable Unified Program element.
- (b) Regulated businesses shall report required elements that are applicable to their business to the CUPA by submitting the sections of the UPCF, a business generated facsimile, or an alternative version developed by their CUPA.
- (c) A copy of the Business Activities page and Business Owner/Operator page shall be submitted with every submission of pages of the UPCF.
- (d) A regulated business may report information collected on the UPCF or on an alternative version electronically, if the CUPA agrees to accept it electronically. In addition:
 - (1) Upon agreement by the CUPA, the business may submit data in either the ASCII flat file format, ANSI X12, or an alternative file format.
 - (2) The business shall submit data in the mode specified by the CUPA.
- (e) Regulated businesses may satisfy their reporting requirement by submitting computer-generated facsimile forms. A facsimile of the UPCF shall meet the following specifications:
 - (1) It shall contain all the information required on the UPCF and defined by the data dictionary for those regulated businesses. It shall use the same section format and present the required information in the order and general sequencing on the page as shown on the UPCF. The facsimile form shall be printed on 8½- by 11-inch paper in 'portrait' format. It shall retain all labels and identifiers for the UPCF sections, pages, and subdivisions. Current page breaks shall be maintained,

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although a page for supplemental local information may be added between UPCF page breaks.

- (2) It is not required to be an exact copy or to use identical fonts, boxing, shading, or other graphic design elements of the UPCF.
- (3) The CUPA shall determine if business-generated facsimiles comply with the requirements of subdivision (e). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.
- (f) To the extent not prohibited by law, the CUPA may assist businesses to revise their information by providing copies of completed reports based on previous submittals. These reports shall be in the general format of the UPCF or the alternative version. A business that revises, certifies, and returns this report to the CUPA satisfies the requirements to complete the appropriate sections of the UPCF. Regulated businesses are not required to use these CUPA generated reports and have the option to submit updated information using the UPCF or a facsimile.
- (g) Regulated business shall comply with the established dates or events that trigger the requirements for businesses to submit information required as part of the Unified Program and submit the appropriate sections of the UPCF, the alternative version, or a computer-generated facsimile. A CUPA may establish other specific dates for submission of information consistent with state and federal law.
- (h) Other documents may also be required by federal and state statutes and regulations or by local ordinance.

§15189. Digital Signatures-

- (a) If a business submits regulatory information specified in the data dictionary electronically, a digital signature may be used in lieu of a manual signature to identify the party submitting the data, subject to agreement with the party to receive the data and provided that the method used is not precluded by state or federal law.
- (b) For the purposes of the UPCF and data dictionary, both the UPCF and data submitted per the requirements of the data dictionary constitute a writing.
- (c) A digital signature may not be denied legal effect, validity, or enforceability solely on the ground that it is electronic.
- (d) A digital signature, message, or record, is attributable to a person if:
 - (1) It was the action of that person, that person authorized the action, or that person's agent took the action; or

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- (2) The party in receipt of the digital signature, message, or record, concluded in good faith that it met any of the criteria in (d)(1) above.

Authority cited: Section 25404(e), Health & Safety Code, Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code.

References: Sections 71060 et seq., Public Resources Code, Section 16.5, Government Code, ABA, Section of Science and Technology, Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce, August 1, 1996, Sections 2B-113, 2B-115, 2B-118 of the Proposed Uniform Commercial Code, Section 250 of the California Evidence Code, and Section 1001(a) of the Federal Rules of Evidence.

§15190. Permitting-

- (a) The UPA shall issue a Unified Program facility permit in accordance with these regulations.
- (b) The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program facility permit.
- (c) The CUPA shall provide for a single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process that provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program facility permit.
- (d) The UPA shall provide a Unified Program facility permit application package for the specific requirements of regulated businesses.
- (1) The permit application may be presented as a single form, designed to transmit multi-program information, or it may be multiple forms arranged into a single package.
- (2) The CUPA shall utilize the applicable sections of the UPCF and, if necessary, additional information to collect the required information for a permit application.
- (e) The CUPA, in cooperation with the participating agencies, shall ensure timely decisions regarding Unified Program facility permits, including:
- (1) Time lines and time limits of appeal processes;
- (2) Provisions for preliminary check for application completeness;
- (3) Provisions for technical review of permit applications by the responsible agency;

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- (4) A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
- (f) The CUPA shall identify and utilize efficient methods of transmitting the permit.
- (g) The CUPA shall establish a permit cycle.
- (h) The CUPA shall evaluate the coordination, consolidation and consistency of the Unified Program facility permit process.
 - (1) Information obtained through the permit evaluation process shall be considered and used in modifying the Unified Program facility permit when appropriate.
- (i) The Unified Program facility permit shall include:
 - (1) The applicable program element(s) and authorizations that make up the Unified Program facility permit;
 - (2) The agency responsible for issuing the Unified Program facility permit;
 - (3) The permitted facility by business name and address;
 - (4) The permit issuance date;
 - (5) The permit expiration date; and
 - (6) An addendum used to document permit conditions for each applicable element of the Unified Program.
- (j) The CUPA shall address any coordination, consolidation, or consistency issues not specifically addressed above.
- (k) If required, the CUPA shall use the Consolidated Contingency Plan format pursuant to Health and Safety Code section 25503.4 and Government Code section 8670.36.5 et seq.
 - (1) The Consolidated Contingency Plan format developed by the CUPA shall be substantially equivalent to the format developed by OES pursuant to Health and Safety Code section 25503.4, when that format has been adopted.
 - (2) The CUPA shall accept plans submitted by businesses in the Consolidated Contingency Plan format adopted by OES pursuant to Health and Safety Code section 25503.4.

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Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.2(a)(1) and (2), 25299.6 and 25503.4, Health and Safety Code; Section 8670.36.5, Government Code.

§15200. Inspection and Enforcement-

(a) The CUPA shall develop a written plan to implement an inspection and enforcement program. The plan shall be developed and implemented in cooperation with all participating agencies of the jurisdiction. The plan shall include:

(1) Provisions for administering all program elements.

(2) The following types of inspections shall be conducted according to the standards contained in statute and regulation.

(A) Hazardous waste generator inspections [refer to Health & Saf. Code, §§ 25150, 25159; Cal. Code Regs., tit. 22, div. 4.5, ch. 12];

(B) Inspection of onsite hazardous waste treatment activities under the CE, CA, and PBR tiers of Tiered Permitting [refer to Health & Saf. Code, §§ 25200.3, 25201.5 Cal. Code Regs., tit. 22, div. 4.5, ch. 45];

(C) UST Program inspections [refer to Health & Saf. Code, § 25288; Cal. Code Regs., tit. 23, div. 3, ch. 16, § 2712 et seq.];

(D) HMRRP Program inspections [refer to Health & Saf. Code, § 25500 et seq.];

(E) CalARP Program inspections [refer to Health & Saf. Code, § 25533 et seq.];
and

(F) Other inspections that may be consolidated pursuant to Health and Safety Code section 25404.2(a)(4).

(3) A schedule of the inspection frequencies to be conducted that shall, at a minimum, meet the inspection frequencies mandated in statutes, as shown in figure 1.

(A) If there is no mandated inspection frequency, inspection frequency scheduling shall consider the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials, emergency response capability, compliance history, and any other pertinent local issues.

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Figure 1 – MANDATED INSPECTION FREQUENCIES		
Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No mandated frequency	
Hazardous Waste Treatment Activities – PBR, CA and CE	At least once every three years	Health and Safety Code section 25201.4(b)-
UST Program	Annually	Health and Safety Code section 25288(a)
HMRRP and Inventories Program	At least once every three years	Health and Safety Code section 25508(b)
CalARP Program	At least once every three years	Health and Safety Code section 25537

- (4) Coordination of inspection efforts between the CUPA and its participating agencies.
- (5) Enforcement notification procedures that ensure:
 - (A) Appropriate confidentiality; and
 - (B) Coordination and timely notification of appropriate prosecuting agency(ies).
- (6) Identification of all available enforcement options.
- (7) Uniform and coordinated application of enforcement standards.
- (8) Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.
- (9) A graduated series of enforcement actions that may be taken by the UPAs, based on the severity of the violation.
- (10) Provisions for multi-media enforcement.
- (11) A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.

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- (12) Provisions for coordinating enforcement efforts between the CUPA and its participating agencies.
- (b) The Inspection and Enforcement Program Plan shall at a minimum be reviewed annually by the CUPA.
- (1) The CUPA shall consult with and reach consensus with the participating agency prior to any changes that affect program elements for which the participating agency is responsible.
- (2) The CUPA shall update the plan as necessary.
- (c) The CUPA shall participate in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.
- (d) In addition to the mandatory elements of Health and Safety Code division 20, chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified inspection and enforcement program.
- (e) CUPAs are responsible for initiating enforcement actions when appropriate, but may also refer enforcement cases to the appropriate state or federal agency for their consideration.
- (f) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions that are mandated, allowed, or authorized pursuant to state law.

Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; Section 6254(f), Government Code.

Reference: Sections 25404(c) and (d), 25404.2, 25404.2(a) and (c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; Section 6254(f), Government Code.

§15210. Single Fee System

- (a) Each CUPA shall implement a single fee system within its jurisdiction. The single fee system will do the following:
- (1) Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program.

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- (2) Consolidates any other fees levied by a local agency specifically to fund their implementation of the programs specified in Health and Safety Code section 25404(c).
- (b) The single fee system may be used to charge fees for programs that are not listed as Unified Program elements in Health and Safety Code section 25404.5(c), if those programs are incorporated into the Unified Program.
- (c) The single fee system may reflect variations in cost to implement and maintain programs for different regulated businesses.
 - (1) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.
 - (2) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.
 - (3) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.
- (d) Provided the single fee system meets the minimum requirements of the law, a CUPA or a participating agency has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.
- (e) Each PA shall notify the CUPA of its program costs.
- (f) The CUPA shall ensure that all funds collected on behalf of the PA are forwarded to the PA.
 - (1) The CUPA shall pay the PA within 45 days of receiving fees designated for the participating agency unless the PA and CUPA agree in writing to an alternate schedule.
- (g) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.
- (h) Fees for non-recurring activities of the CUPA or PA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.

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- (i) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the PAs and authorize the collection of those fees.
- (j) The CUPA or PA shall make fees schedules available to interested parties upon request.
- (k) The CUPA shall prepare and implement a plan to resolve fee disputes that arise between the CUPA and PAs, between a regulated business and either the PA or the CUPA, or between a regulated business and the state regarding the state surcharge.
 - (1) The CUPA shall attempt to resolve disputes involving the surcharge in the same manner used to resolve local fee disputes. Those disputes regarding the state surcharge that cannot be resolved locally may be referred to the Secretary for resolution.
 - (A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.
- (l) The single fee system shall include mechanisms for the billing, collection, and transmittal of the state surcharge.
 - (1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.

§15220. Fee Accountability Program

- (a) Each CUPA shall implement a fee accountability program designed to encourage efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.
 - (1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:
 - (A) Accounting for: the fee schedule, the actual amount billed, and the revenue collected.
 - (B) Discrete billable services, categorized as either site specific or general.
 - (C) Staff work hours required to implement the program.
 - (D) Direct program expenses including durable and disposable equipment.

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- (E) Indirect program expenses including overhead for facilities and administrative functions.
- (F) The number of regulated businesses in each program element within the jurisdiction.
- (G) Total number of regulated businesses in the jurisdiction.
- (H) Quantity and range of services provided, including frequency of inspection.
- (2) The CUPA and participating agencies shall annually review and update the fee accountability program.

§15240. State's Surcharge Responsibilities

- (a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.
 - (1) The Secretary shall determine the amount of each surcharge component based upon information received from each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11.
 - (2) Each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11 shall submit to the Secretary, on a date specified by the Secretary, its projected reasonable and necessary costs, including the detailed supporting information to carry out responsibilities under Health and Safety Code division 20, chapter 6.11.
 - (3) Reasonable and necessary costs shall include but are not limited to, the costs of bad debts, and uncollected fees.
- (b) The Secretary shall review annually, and revise if necessary, the state surcharge to be assessed on regulated businesses. The state surcharge shall not be revised more than once per year.
- (c) The Secretary shall determine the amount of state surcharge to be assessed on each person regulated by the Unified Program in order to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under Health and Safety Code division 20, chapter 6.11, pursuant to Health and Safety Code section 25404.5(b)(1). The state surcharge consists of the following components:

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- (1) A component for oversight of each CUPA assessed on all regulated businesses.
- (2) A component assessed on regulated businesses for each UST that meets the criteria of Health and Safety Code section 25281(y)(1).
- (3) A component assessed on regulated businesses under the Health and Safety Code section 25531 et seq., the CalARP program.
 - (A) This CalARP surcharge component is assessed on a single company or business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.
 - (B) A regulated business is not required to pay the CalARP surcharge component at a stationary source if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at that stationary source operated by that business in the CUPA's jurisdiction, pursuant to Health and Safety Code section 25534.
 - (C) This CalARP surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA. If subsequent changes lead to a re-determination and a requirement by the CUPA to prepare and submit any risk management plan at any of the business's stationary source(s), then this surcharge component will be assessed beginning in the following fiscal year.
- (d) The Secretary shall publish the amendments to the state surcharge in the California Regulatory Notice Register and accept comments on the proposed surcharge for 30 days.
- (e) Following the 30-day comment period required in subdivision (d) for this section, the Secretary will publish the final surcharge in the California Regulatory Notice Register.
- (f) Sixty days following the publishing of the final surcharge in the California Regulatory Notice Register, the CUPAs shall be responsible for collecting the new surcharge-as part of their single fee system.

Authority cited: Sections 25404(b) and (d), 25404.6(c) and 25531.2, Health and Safety Code.
Reference: Sections 25404.5(b) and (d) and 25534, Health and Safety Code.

§15241. Establishing the Single Fee for Designated State Agencies

- (a) The Secretary shall determine the Unified Program single fee for any state agency designated to act as the CUPA pursuant to sections 25404.3 and 25404.5,

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subdivision (a)(2)(B) of the Health and Safety Code, based on data that sets forth the necessary and reasonable costs of CUPA implementation by that state agency, according to the methodology described in subdivision (c).

- (b) Each state agency designated to administer the Unified Program shall provide the Secretary with the information necessary to determine the amount of the single fee. Each designated agency shall annually submit to the Secretary, on a date specified by the Secretary, the amount of necessary and reasonable costs to carry out its responsibilities as the designated agency, including the supporting information requested by the Secretary. Necessary and reasonable costs shall include, but not be limited to, the costs of bad debts and uncollected fees.
- (c) The Secretary or the designated agency shall assess an annual fee on regulated businesses that is sufficient to recover the designated agency's net costs. The annual fee shall consist of a program element fee, levied on each program element to which a regulated business is subject within the CUPA's jurisdiction during the reporting period or any portion thereof, and a flat fee, levied equally on each regulated business within the CUPA's jurisdiction during the reporting period or any portion thereof. The initial reporting period is July 1, 2005, through June 30, 2006.
 - (1) The program element fee shall be calculated for each business by multiplying a base rate by an hourly fee for each program element to which a business is subject. If a business is subject to multiple program elements, all program element fees to which it is subject shall be added to determine its total program element fee.
 - (A) Program element fee categories include AST, UST, CalARP, HMRRP, hazardous waste generator, hazardous waste recycler, and tiered permit. In determining the base rate, the Secretary may divide tanks and generators into categories of large, medium, and small, and divide tiered permits into categories of PBR, CA and CE. Businesses with multiple tiered permit operations at the same site will be subject to the tiered permit program element fee for only one such operation per site, which shall be for the operation that is subject to the highest fee.
 - (B) Businesses that have filed documents required for permanent tank closure with the designated agency or its predecessor, and have discontinued storage of hazardous substances within the tank, shall not be subject to the program element fee beginning with the reporting period after such documents have been filed, but shall be subject to cost recovery pursuant to subdivision (j).

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- (2) The flat fee shall be calculated for each business by dividing the designated agency's net costs, minus all estimated program element fee receipts, by the total number of regulated businesses within the CUPA's jurisdiction.
- (d) In addition to the annual fee, the Secretary or the designated agency shall assess the annual state surcharge pursuant to section 25404.5, subdivision (b)(1) of the Health and Safety Code.
- (e) A transfer of ownership or operation of assets at a site shall not cause an additional fee to be assessed if the fee for the same reporting period has been paid by the previous owner or operator. Businesses with multiple program elements will be assigned the specified base rate for each element that is present at an individual site, except that businesses with more than one tank will be assigned the specified number of units based on the combined capacity of all active tanks per site, regardless of the number of such tanks.
- (f) The fee shall be due on the date or dates specified by the Secretary or the designated agency, which shall not be less than 30 days from the date of the bill. The fee may be assessed in a single billing or in more than one billing. A penalty of 10 percent shall be assessed on any payment that is not received as postmarked by the due date. Beginning on the first day of the calendar month following the due date, simple interest shall accrue monthly on any unpaid fee or portion thereof at the rate established by the State Board of Equalization pursuant to section 43155 of the Revenue and Taxation Code, and shall continue until the fee is paid. The penalty or interest may be waived if the Secretary or the designated agency determines that the failure to make a timely payment was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Mere disagreement with the fee assessment shall not be deemed reasonable cause. A person seeking to be relieved of penalty or interest shall submit a written statement to the Secretary or the designated agency, signed under penalty of perjury, setting forth the facts upon which he or she bases the claim for relief.
- (g) If the Secretary or the designated agency provides a refund because of an erroneous billing, the refund shall be subject to simple interest at the rate provided in section 43455 of the Revenue and Taxation Code, unless the erroneous billing was due to incorrect information provided by the person who receives the refund. No refund shall be granted unless the person who seeks the refund submits written notification of the error to the Secretary or the designated agency within one year of the date the person is notified of the fee or cost assessment.
- (h) Failure to pay the required fee or cost reimbursement may result in a suspension by the Secretary or the designated agency of the regulated business's right to conduct the activity that is subject to the fee. The regulated business will receive at least 30

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days notice of the suspension. Failure to pay the fee, or conducting the activity during the suspension, shall be deemed a violation of the regulatory law administered by the Secretary or the designated agency. Any suspension will be stayed during the appeal of the fee under subdivision (k).

- (i) The Secretary shall review annually, and revise if necessary according to the procedures set forth in this section, the fees assessed pursuant to this section. The Secretary shall not revise the fees more than once per fiscal year. The Secretary shall publish any proposed revisions to the fees in the California Regulatory Notice Register and accept comments on the proposed fees for 30 days thereafter. Following the 30-day comment period, the Secretary will consider comments and prepare a response that identifies the comments, the Secretary's findings, and the Secretary's final fee decisions. The Secretary will make responses available upon request and will publish the final fee in the California Regulatory Notice Register.
- (j) The Secretary or the designated agency may recover the cost of non-recurring activities directly from the person who receives the non-recurring activities, based on the total cost to the Secretary or designated agency of providing that non-recurring activity.
- (k) A person may dispute the assessment of the fee or cost recovery by submitting a petition to the director of the designated agency. The person must submit the petition, in writing, within one year of the date the person is notified of the fee or cost assessment. The petition must state the specific grounds upon which it is founded. If the matter cannot be resolved informally, the director shall designate a hearing officer to decide the petition. The hearing officer shall be in neither a subordinate nor a supervisory or managerial position to any staff involved in making the initial determination. A hearing shall be conducted in person, by telephone, or by video conference at which all relevant evidence will be admissible. The hearing officer shall make the final decision to approve or deny the petition.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code.

Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

§15242. Definitions

The following definitions apply to section 15241 of this title:

- (a) "Base rate" is an estimate of the designated agency's workload standard (amount of time) to complete a program element task for each jurisdiction for which it acts as the CUPA.
- (b) "Business" or "regulated business" shall have the meaning of "regulated business" defined in section 15110 of this title.

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- (c) "Generator" shall have the meaning of "generator" in section 66260.10 of title 22 of the California Code of Regulations. Notwithstanding this definition, a person shall not be subject to the program element fee or the flat fee solely for reason of any of the following: generation of waste that is not transported off site; removing soil for purposes of site mitigation; removing an unexpected or extraordinary spill of hazardous materials; or removing abandoned hazardous waste that was not produced in the course of conducting his or her business. Also, no program element fee or flat fee shall be assessed for any activity that is exempt from any fee pursuant to section 25174.7 or 25205.3 of the Health and Safety Code.
- (1) "Large generator" means a person who generates 500 or more tons of hazardous waste per calendar year.
- (2) "Medium generator" means a person who generates at least one ton but less than 500 tons of hazardous waste per calendar year.
- (3) "Small generator" means a person who generates hazardous waste in an amount less than one ton per calendar year.
- (d) "Hourly fee" is the designated agency's hourly labor charge. It will be calculated by dividing 80 percent of the designated agency's net annual costs by the total estimated annual workload hours to administer the program.
- (e) "Net costs" means projected costs to administer the Unified Program during the fiscal year, minus any money collected from grants, reimbursements, penalties, cost recoveries, and allocations from the Rural CUPA Reimbursement Account. Any surplus or deficit from the preceding fiscal year will be subtracted from or added to the designated agency's cost projections for the following fiscal year.
- (f) "Non-recurring activities" shall include, but not be limited to, oversight of facility closure or of remedial activities, including closure or remedial activities required by an order issued by the designated agency or another government agency. "Non-recurring activities" do not include any of the following: a regulatory compliance inspection, the issuance or approval of a permit or other form of authorization, the issuance of an order for corrective action or penalties, a plan review, or any activity that is essential to carry out one or more of the foregoing regulatory activities.
- (g) "Site" means real property that is owned or operated by the same person that is either contiguous or satisfies the meaning of "on site" in section 66260.10 of title 22 of the California Code of Regulations.
- (h) "Tank" means a storage tank or group of storage tanks.

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- (1) "Large storage tank" means a storage tank or group of storage tanks with a total capacity per site of 34,000 gallons or more.
- (2) "Medium storage tank" means a storage tank or group of storage tanks with a total capacity per site of at least 19,000 gallons but less than 34,000 gallons.
- (3) "Small storage tank" means a storage tank or group of storage tanks with a total capacity per site of less than 19,000 gallons.
- (i) Except as otherwise stated in this section, words have the meanings provided by the following authorities, in order of precedence: (1) section 25404 of the Health and Safety Code; (2) section 15110 of this title, (3) article 2 (commencing with section 25110) of chapter 6.5 of division 20 of the Health and Safety Code; and (4) section 66260.10 of title 22 of the California Code of Regulations.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code.

Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

§15250. CUPA Surcharge Responsibilities

- (a) The CUPA shall collect the surcharge for all program elements within its Unified Program as part of their single fee system.
 - (1) Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.
 - (2) The CUPA shall begin assessing the surcharge within its first billing cycle or within 12 months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within 12 months of the effective date of certification and every 12 months thereafter.
 - (3) The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee.
 - (A) The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.
 - (i) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the state's interests or is not following the established criteria for waiving the state surcharge.

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(B) Notwithstanding the provisions of sections 15241 and 15242, if a CUPA prorates their fees for regulated business in operation for part of a year, the applicable surcharge components may be prorated at the same rate.

(b) Remittance to the Secretary.

(1) The CUPA shall transmit all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.

(A) With each surcharge transmittal the CUPA shall separately report the amount of surcharge revenues collected for: CUPA oversight, regulated USTs, and the CalARP Program.

(B) Failure to transmit the surcharge after collection may be a basis for withdrawing the CUPA's certification.

(C) Remit the collected state surcharge revenues with a completed copy of Report 1 to:

Air Resources Board
Attn: Accounting
P.O. Box 1436
Sacramento, California 95812

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.5(a)(1), (2) and (4) and 25404.5(b), Health and Safety Code.

§15260. CUPA – Education, Technical Expertise, and Training

(a)(1) CUPAs shall meet the following minimum qualifications:

(A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:

(i) Thirty semester units earned from an accredited college or institution approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b), from one or more of the following disciplines:

(aa) Biology or microbiology

(bb) Chemistry, chemical engineering

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- (cc) Physics, physical science
- (dd) Environmental science
- (ee) Geology or soil science
- (ff) Environmental health
- (gg) Environmental or sanitary engineering
- (hh) Toxicology
- (ii) Industrial hygiene
- (jj) Hazardous materials management
- (kk) Fire science, fire technology;

- OR -

- (ii) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94301(b) with major course work in the disciplines listed in paragraph (3)(A)(i);

- OR -

- (iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to paragraph (A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this section, for all the following subject areas:

- (i) Regulatory overview;
- (ii) Classification, identification, and chemistry of hazardous materials and hazardous waste;

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- (iii) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;
 - (iv) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;
 - (v) Conducting inspections and enforcement actions, and writing inspection reports and notice of violation;
 - (vi) Interviewing, case development, and collection and preservation of evidence.
- (b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of paragraphs (1)(A) and (1)(B), shall meet the requirements of subdivision (d) of this section.
- (c) Technical staff and supervisors of the CUPA and PAs shall receive training in the following areas:
 - (1) Hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;
 - (2) Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;
 - (3) Administration practices within a hazardous materials and hazardous waste program;
 - (4) Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and
 - (5) Field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.
- (d)(1) Education Requirements:
 - (A) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b) with major coursework in biological, chemical, physical, environmental or soil science; environmental health; environmental or

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sanitary engineering; toxicology; industrial hygiene; or a related field. Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or

- (B) Registration as an Environmental Health Specialist may be substituted for the required education.
- (2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory compliance inspections.
- (3) Staff issuing enforcement orders shall complete the following minimum training:
 - (A) Health and safety training as specified in section 5192(e) title 8, California Code of Regulations;
 - (B) 100 hours of training in regulatory investigative techniques including training in the following subjects:
 - (i) Federal and state statutes and regulations on hazardous waste control;
 - (ii) Conducting an inspection;
 - (iii) Waste classification;
 - (iv) Inspection report writing;
 - (v) Collection and preservation of samples;
 - (vi) Enforcement response options;
 - (vii) Writing reports of violation;
 - (viii) Interviewing;
 - (ix) Case development;
 - (x) Collection and preservation of evidence;

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- (xi) Witness training; and
- (xii) Rules of evidence and the administrative hearing process.
- (C) Twenty-four hours of training in the following additional areas:
 - (i) Training on penalty assessment and
 - (ii) Negotiation techniques.
- (D) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404(c) and (d), 25404.1(a)(1), and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

§15270. PA – Education, Technical Expertise and Training

- (a) A PA implementing one or more of the program elements on or before December 31, 1995, shall be considered qualified to implement those specific program element(s).
- (b) PA technical staff and supervisors shall meet the ongoing-training requirements identified in section 15260(c).

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404(c) and (d), 25404.1(a)(1), 25404.1(b)(2) and (4), and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

Article 6. CUPA Self-Auditing and Reporting

§15280. Self-audit

- (a) The CUPA shall conduct an annual self-audit at the end of each state fiscal year and shall be maintained on file by the CUPA for a period of five years. Annual self-audit reports shall be completed by September 30 of each year. The time period covered by each self-audit is the state fiscal year from July 1 through June 30 of each year.
 - (1) The first self-audit report shall be produced by September 30 following a full year of operation as a CUPA.
 - (2) Upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.

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- (3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f), the self-audit shall only include information on the program element or elements that particular agency is authorized to continue to operate and shall not include information related to the surcharge or single fee system.
- (b) The self-audit shall assess the performance of the CUPAs and any PA's implementation of standards in statutes and regulations established by the Secretary or the state agencies responsible for one or more of the program elements.
- (c) The self-audit report shall include:
 - (1) A report of deficiencies with a plan of correction.
 - (2) A narrative summary of the effectiveness of activities including, but not limited to:
 - (A) Permitting;
 - (B) Inspections;
 - (C) Enforcement; and
 - (D) The single fee system.
 - (3) An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to the Secretary pursuant to section 15290 and the Unified Program requirements for those activities.
 - (4) The annual review and update of the fee accountability program as required by section 15220.
 - (5) A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.
 - (6) A summary of new programs being included in the Unified Program, if applicable.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code; and Title 23, Section 2713, California Code of Regulations.

§15290. Reporting -

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(a) The CUPA shall submit the following reports for the previous fiscal year to the Secretary by September 30 of each year. The first reports shall be submitted by September 30 following a full state fiscal year of operation as a CUPA.

(1) The Annual Single Fee Summary Report using Report 2. It includes:

- (A) The amount of the single fee billed and the amount collected.
- (B) The amount of any funds due to PAs and the amount actually transmitted.
- (C) The amount of surcharge billed, the amount of surcharge waived, and the amount of surcharge collected for each category identified in section 15240(c).
- (D) If the CUPA believes that the number of regulated businesses will change significantly in the current year or in the next year, then estimates of those changes for each program element will be provided in a cover letter with Report 2.
- (E) A count for the year of the report of the total regulated businesses, UST facilities, USTs, onsite hazardous waste treatment facilities (PBR, CA, and CE), CalARP program stationary sources, waivers granted to stationary sources, and businesses subject to the CalARP program surcharge.

(2) Annual Inspection Summary Report, using Report 3, provides summary information for each program element. The hazardous waste element is separated into parts for generators, LQGs, recyclers, and onsite treatment as shown on Report 3. The summary information includes the number of regulated businesses, total number of inspections, routine inspections, other inspections, and the inspected businesses that returned to compliance within established standards after routine inspections. Established standards vary by program element and are found in either state law or regulations, or the CUPA may adopt more stringent standards by local ordinance or in its application for certification. The report also collects total counts (not by program element) for these types of inspections: combined routine, joint, and integrated/multi-media; and a count of RMP audits for the CalARP program.

(3) Annual Enforcement Summary Report, using Report 4, provides summary information for each program element. The hazardous waste element is separated into parts for generators, LQGs, recyclers, and onsite treatment, as shown on Report 4. The summary information includes the number of facilities with violations by type of violation; the number of informal enforcement actions; the total number of administrative actions, civil and criminal referrals and enforcement actions, and the total amount of fines and penalties initially

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assessed and collected. For the Class I and II violations within the hazardous waste program, it also provides a count of the total number of formal enforcement actions that were initiated within 135 days from the first day of a routine inspection or after making a determination of the violations for a complaint investigation. (This last count excludes minor violations.)

(4) Reports 2 through 4 shall be submitted by the CUPA to the:

California Environmental Protection Agency
Unified Program Section

U.S. Mail: 1001 "I" Street
Sacramento, California 95814

Express Mail: P.O. Box 2815
Sacramento, California 95812

(b) On a quarterly basis, each CUPA shall send information pertaining to local UST program implementation to SWRCB. This report shall satisfy the requirements of Health and Safety Code section 25299.7(b) and California Code of Regulations title 23, section 2713.

(1) Quarterly UST Program Report, using Report 6, provides information on quarterly changes to the count of regulated tank facilities; the number of active and permanently closed petroleum and hazardous substances tank systems; the completed UST facility inspections; and both a count and percent calculation of active UST systems with approved leak detection systems and the count and percent of UST systems that meet the 1998 upgrade or replacement requirements. This report is a turnaround document that is provided quarterly by SWRCB to each CUPA showing the previous quarter's information reported by the CUPA. The CUPA will also review and verify the information shown from the previous quarter and make any appropriate changes.

(2) The quarterly reports shall be submitted 60 days after the end of each quarter to the:

State Water Resources Control Board
Division of Water Quality, UST Program
P.O. Box 2231
Sacramento, CA 95812

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- (c) The periodic reports required by this section shall be submitted in a paper form, unless the CUPA requests to submit the reports electronically and obtains the Secretary's prior approval of the file format.
- (d) If the CUPA chooses to submit Reports 3, 4, and 6, required by section 15290, to the state in an electronic format, the CUPA shall:
 - (1) Meet the standards specified in sections 15185 and 15187;
 - (2) Submit the data using the same layout and present the required information in the same order and general sequencing for each page as shown on each report, or use a facsimile version thereof; and
 - (3) Collect and report all of the information found on the report that applies to the CUPA.
- (e) Upon the written request of the Secretary or an authorized agent, or a state agency responsible for one or more program elements, the CUPA shall provide information listed in or derived from any part of the Unified Program data dictionary [refer to div. 3, subd. 1, chs. 1-5] to the person or agency making the request within 60 days. The scope of these requests by the Secretary for information on facilities and/or CUPA activities is limited to data included in the data dictionary. These additional data reports shall be submitted in a paper form, unless the person or agency making the request approves a CUPA's request to submit the reports electronically. CUPAs may request an extension upon showing good cause.
- (f) Nothing in this section shall limit the authority of the Secretary to request records or documents that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA. The CUPA shall provide this information to the Secretary within 60 days.
- (g) Any other program reports required by federal or state law. The CUPA shall provide this information to the person or agency making the request within 60 days.
- (h) An agency authorized to operate a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f) shall only report information on the implementation of the program element or elements that particular agency is authorized to operate and shall not include information related to the surcharge or single fee system.

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- (i) If the Secretary does not receive current information on the regulated business from each CUPA, the Secretary may use whatever information is available to estimate the data on regulated business.
- (j) The Secretary shall provide copies of the received summary reports required pursuant to section 15290 to any state agency with program element responsibilities under the Unified Program upon request.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25299.3(b), 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code.

Article 7. Changes in the Program

§15300. Prior Notification and Approval by the Secretary

- (a) A CUPA must notify and receive approval from the Secretary prior to instituting the following significant changes:

- (1) Addition or deletion of a program element;
- (2) Replacement or addition of a PA.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.2(c) and 25404.3(d), Health and Safety Code.

- (b) The CUPA shall submit a proposal for change in the Unified Program to the Secretary. The proposal shall include the following if applicable:
 - (1) Explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, each member of a Joint Powers Authority(JPA), and all PAs;
 - (2) PA agreements for any new PAs or any changes in the role or responsibilities of any PA;
 - (3) Adequate information to enable the Secretary to determine that agencies proposed to implement some element of the Unified Program meet requirements including technical expertise, training, and education applicable to those elements; and
 - (4) Sufficient information to enable the Secretary to determine that adequate resources exist to carry out all aspects of the Unified Program.

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- (c) The CUPA shall notify any affected PA.
- (d) Any PA implementing a program element that is subject to proposed change shall have the opportunity to comment on the proposed change.
- (e) The Secretary shall review proposed changes to a Unified Program in consultation with other affected state agencies.
 - (1) The Secretary may conduct a public hearing if in the Secretary's opinion the proposed changes are likely to generate significant public interest.
- (f) The Secretary shall approve or disapprove of the CUPA's proposal within 60 days of receipt of the proposal by certified mail.
- (g) Within 30 days of receipt of the Secretary's decision, the CUPA may appeal a decision pursuant to this section.
 - (1) The appeal shall respond to the reasons specified in the Secretary's decision and may propose additional changes necessary to correct deficiencies in the original proposal.
 - (2) The appeal process shall be completed within 60 days of receipt of the appeal.
 - (3) The Secretary's final decision on the proposal changes shall be issued by certified mail within the 60-day appeal timeframe.

Authority cited: Sections 25404, 25404(b), and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.2(c), 25404.3, 25404.3(d), and 25404.4(a), Health and Safety Code.

§15320. Withdrawal of a Certification

- (a) If the Secretary finds the program or the program implementation to be deficient, the Secretary may:
 - (1) Issue a Notice of Intent to withdraw certification or
 - (2) Enter into a program improvement agreement with the CUPA to correct the deficiencies.
- (b) A Notice of Intent to withdraw certification shall include specific reasons why the CUPA has failed to meet its obligations, in accordance with section 25404.4 of the

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Health and Safety Code, to adequately implement the Unified Program within its jurisdiction.

- (1) A period of 60 days shall be allowed for the CUPA to respond to the Notice of Intent to withdraw certification and to correct deficiencies.
- (2) A public hearing may be scheduled, at which the Secretary may hear the CUPA's response to the Notice of Intent to withdraw.
- (c) If a city or JPA certified as a CUPA and implementing the Unified Program within a city desires to withdraw as a CUPA, it shall give 180 days notice to the Secretary and to the county within which the city is located or to the JPA with which the county has an agreement to implement the Unified Program prior to withdrawing from its Unified Program obligations. A successor CUPA will be chosen in accordance with the provisions of section 25404.3(f) of the Health and Safety Code.

Authority cited: Sections 25404, 25404(b), 25404.3(g) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.3(g) and 25404.4(a), Health and Safety Code.

Article 8. Performance Evaluations-

§15330. Evaluation of CUPAs and PAs

- (a) The Secretary shall evaluate a CUPA's implementation of the requirements of Health and Safety Code, chapter 6.11 and California Code of Regulations title 27, chapter 1 at least once every three years. The Secretary shall coordinate the evaluation of a CUPA with all state agencies with Unified Program responsibilities.
 - (1) The annual self-auditing and reporting requirements pursuant to sections 15280 and 15290 and the specific performance standards established in regulation by the Secretary or the state agencies responsible for one or more of the program elements shall be used for the evaluation of the CUPA.
 - (2) Nothing in this section shall limit the authority of the Secretary to request records or documents for use in conducting the state performance evaluation that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA.
 - (3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f), the performance evaluation shall only cover the program element or elements that particular agency is authorized to continue to operate.

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(b) The CUPA shall evaluate its PAs on an annual basis at the time of the self-audit pursuant to section 15280, or as necessary to maintain standards required in Health and Safety Code, chapter 6.11, the statutes governing specific program elements, and the specific performance standards established in regulation by the Secretary or the state agencies responsible for overseeing one or more of the program elements.

(1) A PA that ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary at any time during the term of its agreement with the CUPA shall enter into a program improvement agreement with the CUPA. The program improvement agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames that shall be met.

(A) The CUPA may apply to the Secretary, in accordance with section 15300, for approval to replace a PA that fails to perform according to the program improvement agreement.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.5, 25201.13, 25201.14, 25286, 25287, 25404.2(c), 25404.3(d), 25404.4(a)(1) and 25506, Health and Safety Code.

Article 9. Unified Program Standardized Forms and Formats

§15400. Unified Program Consolidated Form

(a) The UPCF, defined in section 15110 and shown in division 3, subdivision 1, chapter 6, forms, is a standardized set of forms to be used by CUPAs in the Unified Program to collect information from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.

(b) The UPCF may be reproduced or electronically duplicated as needed.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25281.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

§15400.1. Format of the UPCF and Required Elements

(a) The format of the UPCF refers to the way it is organized [see figure 5]. The UPCF contains the following sections:

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(1) Facility Information, to be completed by all regulated businesses:

(A) Business Activities

(B) Business Owner/Operator Identification

(2) Hazardous Materials:

(A) Hazardous Materials Inventory-Chemical Description-

(3) Tanks:

(A) UST Facility-

(B) UST-

(C) UST Installation-Certificate of Compliance-

(4) Hazardous Waste

(A) Recyclable Materials Report-

(B) Onsite Hazardous Waste Treatment Notification-Facility-

(C) Onsite Hazardous Waste Treatment Notification-Unit

(D) Certification of Financial Assurance for PBR and Conditionally Authorized Onsite Treaters-

(E) Remote Waste Consolidation Site Annual Notification-

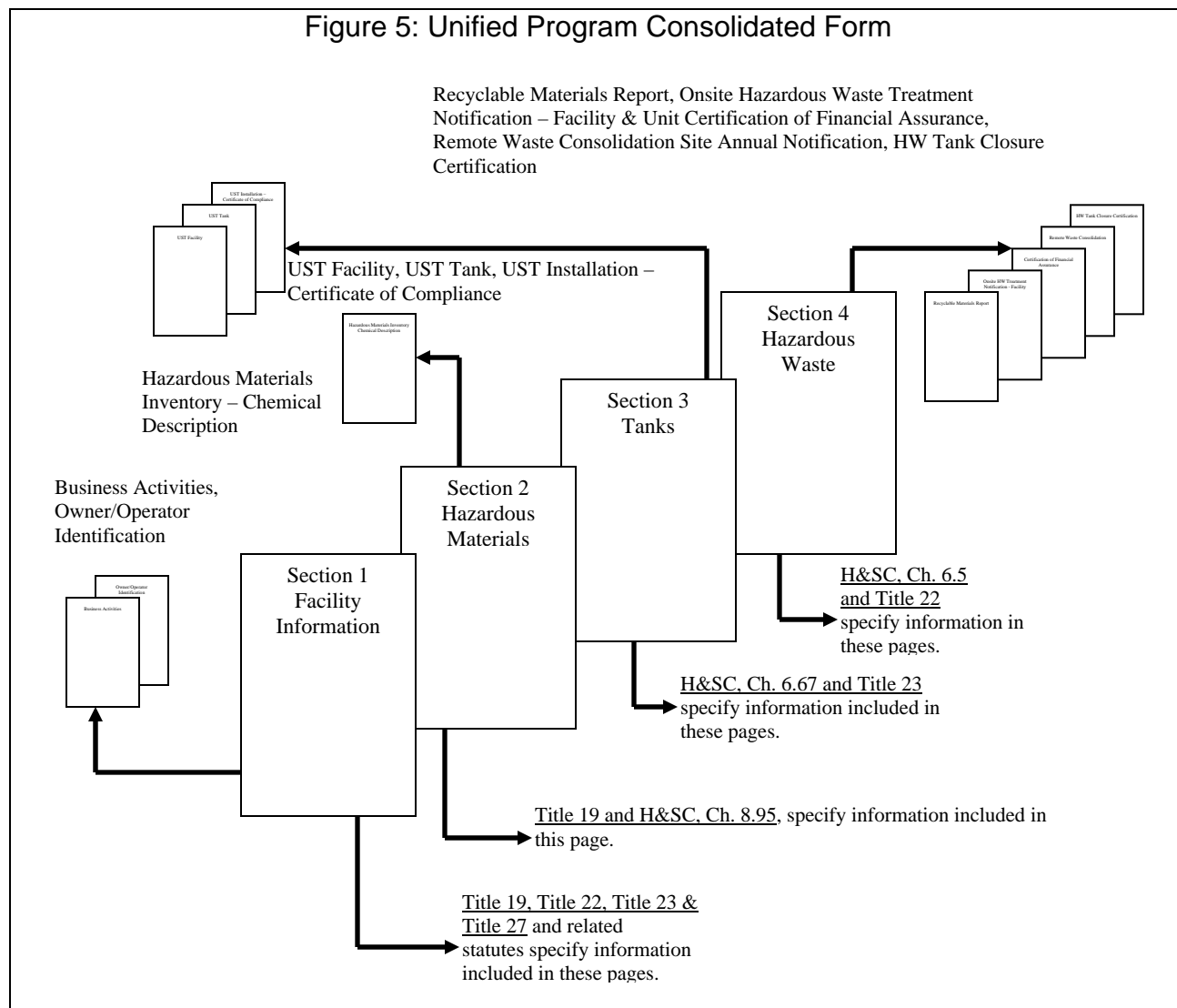
(F) Hazardous Waste Tank Closure Certification-

(b) Regulated businesses shall report required elements that are applicable to their business to the CUPA by submitting the sections of the UPCF, a business-generated facsimile, or an alternative version developed by their CUPA.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

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§15400.3. Use the UPCF and Alternative Versions-

- (a) The CUPA shall distribute copies of the UPCF to any regulated business or member of the public upon request. A CUPA may add the name of the CUPA, a logo, and address, phone number, and other identifying information to the UPCF title or footer on one or more pages, without the customized UPCF being considered an alternative version subject to the conditions adopted by this section.
- (b) The CUPA shall accept the UPCF as shown in division 3, subdivision 1, chapter 6, forms, from any regulated business that chooses to use it, even if the CUPA adopts one or more alternative versions of the UPCF.

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Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25503.5(a) and (b)(1) and (2), 25505 and 25509, Health and Safety Code.

§15400.4. CUPA-Required Additional Information

- (a) CUPAs shall collect additional local information on either supplemental pages or within the UPCF in the boxes provided on the Business Owner/Operator Identification page and the Hazardous Materials Inventory-Chemical Description page.
- (b) CUPAs that have created one or more alternative versions of the UPCF [refer to § 15400.3(c)] may add supplemental requests for information within the alternative version, to the extent space is available.
- (c) CUPAs are prohibited from requesting duplicative information in a different format if that information is part of the data dictionary, the UPCF, or that CUPA's alternative version of the UPCF.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25503.3(a) and 25505, Health and Safety Code.

Article 10. Business Reporting to CUPAs

§15600. Required Business-to-CUPA Submission

- (a) A copy of the Business Activities Page and Business Owner/Operator Page shall be submitted with every submission of pages of the UPCF.
- (b) Regulated businesses are required to meet the reporting requirements of any applicable program element of the Unified Program. Many of those reporting requirements are satisfied by completing sections of either the UPCF, an alternative version [Refer to § 15400.3], or a computer-generated facsimile.
- (c) Businesses may report to the CUPA electronically, if the CUPA agrees [refer to §§ 15185(g) and (h) and 15188(d)].

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1,

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25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

§15610. Use of UPCF and Business-Generated Facsimiles-

- (a) Regulated businesses shall use either the applicable sections of the UPCF or a business-generated version of the UPCF.
- (b) A facsimile of the UPCF shall meet the following specifications:
 - (1) It shall contain all the information required on the UPCF and defined by the data dictionary for those regulated businesses. It shall use the same section format and present the required information in the order and general sequencing on the page as shown on the UPCF. The facsimile form shall be printed on 8½- by 11-inch paper in 'portrait' format. It shall retain all labels and identifiers for the UPCF sections, pages, and subdivisions. Current page breaks shall be maintained, although a page for supplemental local information may be added between UPCF page breaks.
 - (2) It is not required to be an exact copy or to use identical fonts, boxing, shading, or other graphic design elements of the UPCF.
- (c) The CUPA shall determine if business-generated facsimiles comply with the requirements of subdivision (b). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.
- (d) To the extent not prohibited by law, the CUPA may assist businesses to revise their information by providing copies of completed reports based on previous submittals. These reports shall be in the general format of the UPCF or the alternative version. A business that revises, certifies, and returns this report to the CUPA satisfies the requirements to complete the appropriate sections of the UPCF. Regulated businesses are not required to use these CUPA-generated reports and have the option to submit updated information using the UPCF or a facsimile.
- (e) To the extent not prohibited by law, a business subject to the hazardous materials reporting requirements may comply with the annual inventory reporting requirement by submitting a certification statement to the CUPA if both of the following apply:
 - (1) The business has previously filed the appropriate pages of the UPCF or an alternative version; and
 - (2) The business owner or officially designated representative signs and attests to these statements:

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- (A) The information contained in the annual inventory form most recently submitted to the CUPA is complete, accurate, and up to date.
- (B) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.
- (C) No hazardous materials subject to the inventory requirements are being handled that are not listed on the most recently submitted annual inventory form.
- (D) The most recently submitted annual inventory form contains the information required by section 11022 of title 42 of the United States Code.

Authority cited: Sections 25404(b), (c), (d), and (e), 25404.6(c), and 25505(d), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25501, 25503.3(b) and (c), 25503.5(c), 25505, 25506 and 25509, Health and Safety Code.

§15620. Updated, Amended, Revised, or Resubmitted UPCF

- (a) Regulated businesses shall comply with the established dates or events that trigger the requirements for businesses to submit information required as part of the Unified Program and submitting the appropriate sections of the UPCF, the alternative version, or a computer-generated facsimile. A CUPA may establish other specific dates for submission of information consistent with state and federal law.
- (b) Different parts of the UPCF, the alternative version, or a computer-generated facsimile may be submitted separately. Each submission shall be accompanied by the Business Owner/Operator Identification page and shall be signed with an original signature. The Business Activities page shall also be resubmitted whenever any information reported on it changes.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.